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In re Application of	:	
LEHTONEN	:	
U.S. Application No.: 09/581,997	:	DECISION ON PETITION
PCT No.: PCT/FI98/01033	:	
Int. Filing Date: 30 December 1998	:	TO RESET PERIOD FOR
Priority Date: 31 December 1997	:	
Attorney's Docket No.: 023600-227	:	REPLY
For: A VIBRATING AGGREGATE	:	

This decision is in response to applicant's "Petition to Reset Period for Response due to Late Receipt of July 14, 2000 Notification of Missing Requirements Under 35 U.S.C. 371 or in the Alternative a Petition for a One-Month Extension of Time" filed 07 September 2000.

BACKGROUND

On 30 December 1998, applicant filed international application PCT/FI98/01033, which claimed priority of an earlier application filed 31 December 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 July 1999. A Demand for international preliminary examination was filed on 11 June 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 31 June 2000

On 21 June 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the International Application as required by 35 U.S.C. 371(c)(2); and an unexecuted oath or declaration.

On 14 July 2000, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) and "NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION" informing applicant that the declaration filed 21 June 2000 was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. Applicant was notified of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge of \$130.00 for

providing the oath or declaration later than one month from the date of the notice or 31 months from the priority date for the application, whichever was later.

On 07 September 2000, applicant responded with the present petition accompanied by an executed combined declaration and power of attorney.

DISCUSSION

Petitions to reset a period for reply due to late receipt of a USPTO action are governed by Manual of Patent Examining Procedure (MPEP) section 710.06. The section states in part:

The PTO will grant a petition to restart the previously set period for reply to the PTO action to run from the date of receipt of the PTO action at the correspondence address when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the PTO action at the correspondence address;

Along with the present petition applicant has included a copy of the Notice of Missing Requirements and a USPTO envelope. Both show a receipt date of 18 August 2000. As discussed above, applicant filed the present petition 07 September 2000. This is beyond the two weeks required. Therefore, applicant's request to reset the period for reply can not be granted.

In the alternative applicant has requested that the petition be treated as a petition for a one-month extension. In light of that request, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

Applicant's petition to reset the period for response is **DISMISSED**.

Deposit Account 02-4800 will be charged the \$110.00 extension fee as authorized.

The application has an international filing date of **30 December 1998** under 35 U.S.C. 363 and a date of **07 September 2000** under 35 U.S.C. 371(c) and 102(e).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which

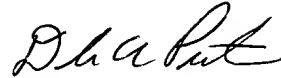
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identifies a date of **07 September 2000** under 35 U.S.C. 371(c) and 102(e).



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